

EXHIBIT 3

<div>Page 1</div> <div> <p>1 CONFIDENTIAL</p> <p>2 IN THE UNITED STATES DISTRICT COURT</p> <p>3 WESTERN DISTRICT OF MISSOURI</p> <p>4 Case No. 2:06 CV 04305(NKL)</p> <p>-----)</p> <p>5 RONALD TUSSEY, et al.,</p> <p>6 Plaintiffs,</p> <p>7 vs.</p> <p>8</p> <p>9 ABB, INC., et al.,</p> <p>10 Defendants.</p> <p>-----)</p> <p>11</p> <p>12</p> <p>13</p> <p>14 VIDEOTAPED DEPOSITION OF</p> <p>15 R. GLENN HUBBARD</p> <p>16 New York, New York</p> <p>17 Friday, January 23, 2009</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23 Reported by:</p> <p>24 Toni Allegrucci</p> <p>25 JOB NO. 55285</p> </div>	<div>Page 6</div> <div> <p>1 CONFIDENTIAL - R. G. Hubbard</p> <p>2 Fidelity.</p> <p>3 MR. DITTMAR: James S. Dittmar,</p> <p>4 Fidelity.</p> <p>5 MR. EGLAND: And Mark Egland,</p> <p>6 Analysis Group.</p> <p>7 MR. VIDEOGRAPHER: Will the</p> <p>8 Court Reporter please swear in the</p> <p>9 witness.</p> <p>10 R G L E N N H U B B A R D, called as a</p> <p>11 witness, having been duly sworn by a Notary</p> <p>12 Public, was examined and testified as</p> <p>13 follows:</p> <p>14 EXAMINATION BY</p> <p>15 MR. SCHLICHTER:</p> <p>16 Q. State your name, please.</p> <p>17 A. Robert Glenn Hubbard.</p> <p>18 Q. Mr. Hubbard, when did you first</p> <p>19 become involved in this case?</p> <p>20 A. I believe July of 2007 was the</p> <p>21 retention.</p> <p>22 Q. Were you brought in by the</p> <p>23 Analysis Group?</p> <p>24 A. I've certainly worked with</p> <p>25 Analysis Group. I was brought in by the</p> </div>
<div>Page 5</div> <div> <p>1 CONFIDENTIAL - R. G. Hubbard</p> <p>2 MR. VIDEOGRAPHER: Good morning.</p> <p>3 This is tape No. 1 of the videotaped</p> <p>4 deposition of Glenn Hubbard, in the</p> <p>5 matter Tussey versus ABB, Incorporated,</p> <p>6 et al. This deposition is being held at</p> <p>7 620 Eighth Avenue, New York, New York,</p> <p>8 on January 23, 2009, at approximately</p> <p>9 8:10 a.m.</p> <p>10 My name is Pedro Placido from the</p> <p>11 firm of Esquire Deposition Services and</p> <p>12 I'm the legal video specialist. The</p> <p>13 court reporter is Toni Allegrucci in</p> <p>14 association with Esquire Deposition</p> <p>15 Services. Will counsel please introduce</p> <p>16 themselves for the record.</p> <p>17 MR. SCHLICHTER: Jerome Schlichter,</p> <p>18 Heather Lea and Troy Doles, for the</p> <p>19 plaintiffs, and Mr. Steve Pomerantz is</p> <p>20 sitting here at the table.</p> <p>21 MS. KORDELESKI: Kathy Kordeleski,</p> <p>22 ABB.</p> <p>23 MR. ORTELERE: Brian Ortelere for</p> <p>24 the ABB defendants.</p> <p>25 MS. RAYMOND: Margaret Raymond,</p> </div>	<div>Page 7</div> <div> <p>1 CONFIDENTIAL - R. G. Hubbard</p> <p>2 client.</p> <p>3 Q. Was the Analysis Group already</p> <p>4 involved at that point?</p> <p>5 A. I believe they may have been, yes.</p> <p>6 Q. Did they talk to you first rather</p> <p>7 than the lawyers?</p> <p>8 A. I'm sorry, who is "they" in the</p> <p>9 question?</p> <p>10 Q. The Analysis Group?</p> <p>11 A. I really don't recall, sorry.</p> <p>12 Q. Now, you have an arrangement, what</p> <p>13 are you being compensated in this case?</p> <p>14 A. \$1,000 per hour for my services. I</p> <p>15 also receive what's called an "attribution"</p> <p>16 based on the gross billings of</p> <p>17 Analysis Group.</p> <p>18 Q. An "attribution," and what is</p> <p>19 the -- is that a percentage?</p> <p>20 A. Yes.</p> <p>21 Q. So you have \$1,000 an hour, plus a</p> <p>22 percentage of the income that the</p> <p>23 Analysis Group gets in this case?</p> <p>24 A. No, that's not correct. I have</p> <p>25 \$1,000 an hour for my own time and a</p> </div>

<p style="text-align: right;">Page 8</p> <p>1 CONFIDENTIAL - R. G. Hubbard</p> <p>2 percentage of their gross billings. Their</p> <p>3 income is a number I wouldn't know.</p> <p>4 Q. So their gross billings, what</p> <p>5 percentage is that?</p> <p>6 A. It would be 7.5 percent.</p> <p>7 Q. And what have those billings have</p> <p>8 to this point approximately?</p> <p>9 A. I'm sorry, by "those billings,"</p> <p>10 mine, Analysis Group?</p> <p>11 Q. Those billings for which you have a</p> <p>12 percentage?</p> <p>13 A. The payments that I've received are</p> <p>14 about \$100,000. Whether that fully catches</p> <p>15 up Analysis Group and Fidelity, that would be</p> <p>16 only information that I would have.</p> <p>17 Q. Well, what has your billing been</p> <p>18 separate from what the percentage you've</p> <p>19 received from the Analysis Group in this</p> <p>20 case?</p> <p>21 A. I'd say since the case began it's</p> <p>22 approximately 60 hours.</p> <p>23 Q. Sixty hours?</p> <p>24 A. Yes.</p> <p>25 Q. So that's \$60,000 in flat fee?</p>	<p style="text-align: right;">Page 33</p> <p>1 CONFIDENTIAL - R. G. Hubbard</p> <p>2 opinion, I'm asking you economic opinion,</p> <p>3 does a fiduciary in a 401(k) plan have the</p> <p>4 right to fully rely on the board of directors</p> <p>5 of the mutual fund whose, of the mutual fund</p> <p>6 in the 401(k) plan, so that the fiduciary can</p> <p>7 simply conclude the fees are reasonable</p> <p>8 because the fiduciary concludes the board of</p> <p>9 directors have done their job?</p> <p>10 A. Well, since you've asked for</p> <p>11 reliance you've asked me, again, for legal</p> <p>12 opinion, so I can't do it. But what I can</p> <p>13 say is that it would be reasonable for</p> <p>14 fiduciary to assume that forces of</p> <p>15 competition and board action would generate</p> <p>16 certainly in general competitive prices,</p> <p>17 whether that's sufficient is legal opinion</p> <p>18 and, I'm sorry, I just can't offer it for</p> <p>19 you.</p> <p>20 Q. Now, in your article with</p> <p>21 John Coates, Competition Shareholders Fees in</p> <p>22 the Mutual Fund Industry, Evidence and</p> <p>23 Implications for Policy, that was published</p> <p>24 in 2006, right?</p> <p>25 A. 2007, I believe, but...</p>
<p style="text-align: right;">Page 9</p> <p>1 CONFIDENTIAL - R. G. Hubbard</p> <p>2 A. Right. I haven't received all of</p> <p>3 that but, yes, that would be the time</p> <p>4 accrued.</p> <p>5 Q. And do you have any estimate of</p> <p>6 what the Analysis Group has received?</p> <p>7 A. I don't. All I would know is based</p> <p>8 on my attribution, which has been about</p> <p>9 \$100,000. I don't know the accrual number,</p> <p>10 that's simply what I've received.</p> <p>11 Q. Your attribution is \$40,000 or</p> <p>12 \$100,000, the portion that's the 7.5 percent?</p> <p>13 A. No. 100 -- let's step back.</p> <p>14 Direct billing would be number of hours times</p> <p>15 1,000, so that's the 60,000 that's accrued.</p> <p>16 Q. Right.</p> <p>17 A. The 100,000 is roughly what I've</p> <p>18 received in attribution.</p> <p>19 Q. On top of the 60?</p> <p>20 A. On top.</p> <p>21 Q. Okay. So if you've received</p> <p>22 everything that Analysis Group has billed to</p> <p>23 this point, and in trying to assess what it</p> <p>24 is that Analysis Group has received, \$100,000</p> <p>25 is 7.5 percent --</p>	<p style="text-align: right;">Page 34</p> <p>1 CONFIDENTIAL - R. G. Hubbard</p> <p>2 Q. All right.</p> <p>3 A. Maybe I mis --</p> <p>4 Q. When did you start work on that</p> <p>5 case, that article?</p> <p>6 A. Oh, I'm guessing probably a year</p> <p>7 prior to publication, probably late 2005,</p> <p>8 early 2006, but I don't know.</p> <p>9 Q. The date on it is 8/2007, so does</p> <p>10 that refresh your memory about when you would</p> <p>11 have started work on that?</p> <p>12 A. Yeah, again, I just said I don't</p> <p>13 know, it would probably be over a year, but I</p> <p>14 don't know.</p> <p>15 Q. Who funded that?</p> <p>16 A. Well, most -- I'm not sure what you</p> <p>17 mean by "funding." We certainly received</p> <p>18 financial support for research from the</p> <p>19 Investment Company Institute. In terms of</p> <p>20 our own time, you know, it's John's and my</p> <p>21 time.</p> <p>22 Q. How much support from the</p> <p>23 Investment Company Institute did you receive</p> <p>24 for that?</p> <p>25 A. I really don't recall, sorry.</p>

<p style="text-align: right;">Page 35</p> <p>1 CONFIDENTIAL - R. G. Hubbard</p> <p>2 Q. Give me an approximation, was it</p> <p>3 hundreds of thousands of dollars?</p> <p>4 A. Oh, I doubt it, or I would recall</p> <p>5 something like that. It was a substantial</p> <p>6 support, I mean --</p> <p>7 Q. Hundreds of thousands or less than</p> <p>8 hundred thousand?</p> <p>9 A. Again, if I don't recall I can't</p> <p>10 recall.</p> <p>11 Q. Well, you might not recall a</p> <p>12 specific number but you might recall a range,</p> <p>13 that's what I'm asking about. Do you have</p> <p>14 any range at all? Do you have any idea?</p> <p>15 A. You know, I'm sorry, I don't.</p> <p>16 Q. Could it be \$100, \$500?</p> <p>17 A. No. I think \$100,000 would be the</p> <p>18 lower end of the range.</p> <p>19 Q. What would be the upper end?</p> <p>20 A. I don't recall.</p> <p>21 Q. Who was the money paid to, you and</p> <p>22 Mr. Coates or to Harvard or whom?</p> <p>23 A. Well, some of it would go to</p> <p>24 Mr. Coates and me, yes.</p> <p>25 Q. How much did you get?</p>	<p style="text-align: right;">Page 37</p> <p>1 CONFIDENTIAL - R. G. Hubbard</p> <p>2 So was the 100,000 minimum that you</p> <p>3 are talking about and the unknown maximum</p> <p>4 what you got or what you and Mr. Coates got</p> <p>5 together?</p> <p>6 A. It's my guess about the total, but</p> <p>7 I really don't know, I mean there were</p> <p>8 payments to Analysis Group, as well, for</p> <p>9 support. Whatever Mr. Coates got, plus</p> <p>10 whatever I got, I don't know the number.</p> <p>11 Q. All right. Well, the number you</p> <p>12 are talking about is separate from what</p> <p>13 Analysis Group got, right?</p> <p>14 A. I have no idea what Analysis Group</p> <p>15 got.</p> <p>16 Q. I didn't ask that. I asked whether</p> <p>17 the number that you got, that you mentioned</p> <p>18 minimum of \$100,000 and unknown maximum, was</p> <p>19 separate from whatever it was that</p> <p>20 Analysis Group got?</p> <p>21 A. I believe I mentioned just a couple</p> <p>22 moments ago that that would be a guess for</p> <p>23 the project as a whole, I also said it would</p> <p>24 be an uninformed guess because I don't</p> <p>25 recall.</p>
<p style="text-align: right;">Page 36</p> <p>1 CONFIDENTIAL - R. G. Hubbard</p> <p>2 A. Again, I just I don't recall,</p> <p>3 sorry.</p> <p>4 Q. What percent?</p> <p>5 A. Well, I would have gotten it based</p> <p>6 on whatever I billed them, but I don't recall</p> <p>7 what that is.</p> <p>8 Q. I understand what you billed them.</p> <p>9 What I'm saying is, in the division of the</p> <p>10 money between what you got and what</p> <p>11 Mr. Coates got, what was your arrangement?</p> <p>12 A. I don't know about Mr. Coates, I</p> <p>13 only know about myself.</p> <p>14 Q. Oh, so the money that you are</p> <p>15 talking about, which was at least \$100,000</p> <p>16 and you don't know the upside, went to you</p> <p>17 for that?</p> <p>18 A. Well, no. I mean I'm guessing</p> <p>19 that's for the entire project because there</p> <p>20 were other payments besides myself, but I</p> <p>21 really don't recall.</p> <p>22 Q. Well, I don't understand what you</p> <p>23 are saying. You are saying you don't know</p> <p>24 what Mr. Coates got, you only know what you</p> <p>25 got, and then you quoted those figures.</p>	<p style="text-align: right;">Page 38</p> <p>1 CONFIDENTIAL - R. G. Hubbard</p> <p>2 Q. And you don't recall what you</p> <p>3 received, any estimate whatsoever?</p> <p>4 A. I really don't, no.</p> <p>5 Q. The Investment Company Institute</p> <p>6 has a self-interest in the conclusions that</p> <p>7 you reached, does it not?</p> <p>8 A. The Investment Company Institute</p> <p>9 certainly has its own point of view. This is</p> <p>10 research that's reviewed and published in an</p> <p>11 academic setting. The ultimate judges aren't</p> <p>12 the investment company.</p> <p>13 Q. That wasn't my question. That</p> <p>14 wasn't my question, Mr. Hubbard. My question</p> <p>15 was about self-interest, and we're entitled</p> <p>16 to know about it.</p> <p>17 A. It's disclosed, sir, right on the</p> <p>18 cover of the article.</p> <p>19 Q. Well, I'm asking you this question,</p> <p>20 the Investment Company Institute, I'm not</p> <p>21 talking about the fact that it's funded by</p> <p>22 them, I'm talking about the fact that they</p> <p>23 have a self-interest in the result, don't</p> <p>24 they?</p> <p>25 A. The Investment Company Institute</p>

<p style="text-align: right;">Page 39</p> <p>1 CONFIDENTIAL - R. G. Hubbard</p> <p>2 certainly has a point of view, yes.</p> <p>3 Q. That's not my question whether they</p> <p>4 have a point of view, everybody has a point</p> <p>5 of view.</p> <p>6 My question is whether they have a</p> <p>7 self-interest in the result?</p> <p>8 A. I don't know what a "self-interest"</p> <p>9 means for an organization, but I would assume</p> <p>10 that they have their own views about</p> <p>11 competition in the mutual fund industry, if</p> <p>12 that's your question.</p> <p>13 Q. The Investment Company Institute</p> <p>14 you know, Mr. Hubbard, promotes the mutual</p> <p>15 fund industry, don't you?</p> <p>16 A. They certainly are an association</p> <p>17 for the mutual fund industry, sure.</p> <p>18 Q. They are not-for-profit arm of the</p> <p>19 mutual fund industry, set up to promote it,</p> <p>20 right?</p> <p>21 A. I don't know if "promote" is the</p> <p>22 right word but they are certainly</p> <p>23 representing that industry, yes.</p> <p>24 Q. It's the representative</p> <p>25 organization of the mutual fund industry,</p>	<p style="text-align: right;">Page 45</p> <p>1 CONFIDENTIAL - R. G. Hubbard</p> <p>2 Fidelity's?</p> <p>3 Q. Fidelity's?</p> <p>4 A. Not that I recall, no. I wasn't</p> <p>5 doing Fidelity work when I did this paper.</p> <p>6 Q. Now, you said that you started your</p> <p>7 involvement in this sometime I believe you</p> <p>8 said you weren't sure, I know that, would the</p> <p>9 best timeframe be, in your mind, sometime in</p> <p>10 the year 2006?</p> <p>11 A. I've said I don't recall, so it</p> <p>12 could be 2005, 2006, I really don't recall.</p> <p>13 Q. Now, the Bennett versus FMR Co.</p> <p>14 case is a case involving, among other issues,</p> <p>15 mutual fund fees of Fidelity's mutual funds,</p> <p>16 right?</p> <p>17 A. Yes, it is.</p> <p>18 Q. You are involved in that case and</p> <p>19 have been involved for how many years?</p> <p>20 A. I really don't recall, sorry.</p> <p>21 Q. Give me an approximation?</p> <p>22 A. It could be from 2006, I don't</p> <p>23 really remember.</p> <p>24 Q. Okay. And if it was 2006 then you</p> <p>25 were involved as an expert witness -- well,</p>
<p style="text-align: right;">Page 40</p> <p>1 CONFIDENTIAL - R. G. Hubbard</p> <p>2 isn't it?</p> <p>3 A. I would say sure.</p> <p>4 Q. Okay. So it's the mutual fund</p> <p>5 industry then which financed this report,</p> <p>6 right?</p> <p>7 A. They certainly provided support</p> <p>8 toward the report.</p> <p>9 Q. And it is possible that the</p> <p>10 Analysis Group then got hundreds of thousands</p> <p>11 of dollars for their work on this project,</p> <p>12 isn't it?</p> <p>13 A. I really don't know.</p> <p>14 Q. Who asked you to do that study?</p> <p>15 A. You know, I really don't recall. I</p> <p>16 believe it was somebody from ICI, but I don't</p> <p>17 really remember the person's name.</p> <p>18 Q. Who was the then head of the ICI?</p> <p>19 A. I don't know.</p> <p>20 Q. All right. You believe it was</p> <p>21 somebody from ICI and this wasn't something</p> <p>22 that you came up with on your own then, it</p> <p>23 was somebody from ICI requesting it as best</p> <p>24 you recall?</p> <p>25 A. No, that's not what I said. John</p>	<p style="text-align: right;">Page 46</p> <p>1 CONFIDENTIAL - R. G. Hubbard</p> <p>2 first of all, who got you involved in that</p> <p>3 case?</p> <p>4 A. I'm sorry, which case are we now</p> <p>5 on?</p> <p>6 Q. Bennett?</p> <p>7 A. I don't remember with whom my first</p> <p>8 conversation was. I believe it was probably</p> <p>9 Analysis Group, but I don't recall.</p> <p>10 Q. All right. And do you have the</p> <p>11 same arrangement with Analysis Group in that</p> <p>12 case that you do in this case, that you get</p> <p>13 paid your flat rate, plus a percentage of</p> <p>14 Analysis Group's billings?</p> <p>15 A. I do.</p> <p>16 Q. Seven and a half percent in that</p> <p>17 case, too?</p> <p>18 A. Yes.</p> <p>19 Q. How much have you received in that</p> <p>20 case?</p> <p>21 A. I really don't know.</p> <p>22 Q. Give me an approximation?</p> <p>23 A. I couldn't even do that. The only</p> <p>24 reason I knew the other was I knew it was a</p> <p>25 question you would ask for this proceeding.</p>

<p style="text-align: right;">Page 47</p> <p>1 CONFIDENTIAL - R. G. Hubbard</p> <p>2 I don't know it for everything I work on.</p> <p>3 Q. More than a half a million dollars?</p> <p>4 A. Oh, no.</p> <p>5 Q. More than 300,000?</p> <p>6 A. You could ask me to speculate all</p> <p>7 morning, Mr. Schlichter, I don't know.</p> <p>8 Q. At least 100,000?</p> <p>9 A. I really don't know.</p> <p>10 Q. Now, did you discuss, when you were</p> <p>11 ready to publish the article, did you discuss</p> <p>12 at any time with Fidelity or discuss with</p> <p>13 them or inform them of the fact that you were</p> <p>14 about to publish an article on mutual funds?</p> <p>15 A. I don't recall any discussions with</p> <p>16 Fidelity. Remember, this was started</p> <p>17 considerably before the Bennett matter. I</p> <p>18 certainly did receive comments from an</p> <p>19 attorney who has done work for Fidelity,</p> <p>20 Mr. Murphy, who's cited as a commenter.</p> <p>21 That's as close as I can think in answering</p> <p>22 your question.</p> <p>23 Q. You just said, remember, this was</p> <p>24 started before Bennett, you just said you</p> <p>25 didn't know when you started the work, you</p>	<p style="text-align: right;">Page 49</p> <p>1 CONFIDENTIAL - R. G. Hubbard</p> <p>2 deposition is this year, so far as I recall,</p> <p>3 so no would be the answer.</p> <p>4 Q. Well, what about the report, did</p> <p>5 you, did you issue the report before you or</p> <p>6 after you completed the article?</p> <p>7 A. I believe after the completion of</p> <p>8 the article, the article may have been</p> <p>9 published in late '07, but the Bennett report</p> <p>10 I believe is completed at a different time.</p> <p>11 I'm sorry, I don't remember all these dates.</p> <p>12 Q. All right. So let's talk about the</p> <p>13 year 2006. In the year 2006 you are working</p> <p>14 on this article, I believe you are sure of</p> <p>15 that?</p> <p>16 A. Yes.</p> <p>17 Q. All right. In the year 2006 you</p> <p>18 are a retained expert for Fidelity in the</p> <p>19 Bennett case, right?</p> <p>20 A. Yes.</p> <p>21 Q. All right. In your report and in</p> <p>22 your testimony in the Bennett case you opine,</p> <p>23 among other things, on the reasonableness of</p> <p>24 mutual fund fees and compensation, do you</p> <p>25 not?</p>
<p style="text-align: right;">Page 48</p> <p>1 CONFIDENTIAL - R. G. Hubbard</p> <p>2 said that just a minute ago, Mr. Hubbard?</p> <p>3 A. Again, my recollection is this is</p> <p>4 late 2005, early 2006. The factual answer is</p> <p>5 I didn't discuss this with Fidelity</p> <p>6 representatives. The only person that I can</p> <p>7 remember is Mr. Murphy, who is not a Fidelity</p> <p>8 employee but who has represented Fidelity on</p> <p>9 some matters.</p> <p>10 Q. Well, let me understand then, since</p> <p>11 you've said that, if you don't remember when</p> <p>12 you started the work on this paper, do you</p> <p>13 remember when you started the work on this</p> <p>14 paper in relation to when you started to work</p> <p>15 on the Fidelity case, the Bennett case?</p> <p>16 A. You know, I really don't. The</p> <p>17 paper, the ideas behind the paper are things</p> <p>18 that John and I have been talking about a</p> <p>19 long time, so I don't remember when an actual</p> <p>20 start date might be.</p> <p>21 Q. Had you given your opinions in a</p> <p>22 report or on the record in the Bennett case</p> <p>23 prior to the time you published this article?</p> <p>24 A. I don't -- no. Because -- this is</p> <p>25 all blending together -- the Bennett case</p>	<p style="text-align: right;">Page 50</p> <p>1 CONFIDENTIAL - R. G. Hubbard</p> <p>2 A. Yes, of course.</p> <p>3 Q. It's a central issue for your</p> <p>4 report in that case, right?</p> <p>5 A. Of course.</p> <p>6 Q. And it's a central issue in your</p> <p>7 article, right?</p> <p>8 A. It's the subject of the article.</p> <p>9 Q. It's the subject of your article</p> <p>10 and the subject of your expert testimony?</p> <p>11 A. Yes.</p> <p>12 Q. So you happen to have two ongoing</p> <p>13 matters on the same central subject of fees</p> <p>14 and mutual funds, one in an article you are</p> <p>15 doing, working on, and one in a report for</p> <p>16 Fidelity you are working on, at the same</p> <p>17 time, right?</p> <p>18 A. I'm not sure what you mean by it</p> <p>19 but, yes, the work is going on at the same</p> <p>20 time, if that's your question.</p> <p>21 Q. All right. And of course you know</p> <p>22 that the findings that you reach would</p> <p>23 obviously be something that could be used by</p> <p>24 anyone in questioning you in the Fidelity, in</p> <p>25 the Bennett versus Fidelity case?</p>

1 CONFIDENTIAL - R. G. Hubbard
2 A. That would be perfectly reasonable,
3 yes.
4 Q. "Would be perfectly reasonable."
5 So that if you conclude fees are reasonable
6 throughout the entire mutual fund industry,
7 you would expect that would be asked about in
8 your testimony in the Bennett versus Fidelity
9 case, right?
10 A. Yes. That wasn't the conclusion
11 but, yes, that would be --
12 Q. If you conclude many mutual funds
13 have excessive fees, you could expect that
14 would be asked about in the Bennett versus
15 Fidelity case, right?
16 A. Yes, of course.
17 Q. Yet the testimony here is that you
18 never even spoke to Fidelity about writing
19 this article?
20 A. You asked me had I spoken with
21 Fidelity when I began this project, I have no
22 recollection of that. The only recollection
23 I have is a conversation with Mr. Murphy, but
24 that was offering comments on the already
25 finished article.